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March 5, 2020

VIA ECF AND ELECTRONIC MAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
Bernstein.chambers@nysb.uscourts.gov

Re: Remaining Chaitman LLP Adversary Proceedings Listed on Exhibit A

Dear Judge Bernstein:

We are counsel to Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the estate of Bernard L. Madoff. We write to advise your Honor that the cases listed on Exhibit A hereto have completed discovery and, pursuant to this Court’s Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order (the “Avoidance Action Procedures”) (ECF No. 3141) (*see* Ex. A at 5.A), are ripe for mediation.

In that regard, the Trustee has been diligently attempting to timely refer these adversary proceedings to mandatory mediation and agree on appropriate mediators for the cases with counsel for the defendants. As set forth in the email correspondence attached hereto as Exhibit B, counsel for defendants has: (1) refused to agree to any mediators previously selected and/or appointed in this liquidation proceeding; (2) rejected the Trustee’s suggestion of former New York and New Jersey Bankruptcy Judges from this Court’s registry of approved mediators on the basis that these former judges would not be impartial; and (3) demanded that all of the cases be mediated by Hon. Allen Hurkin-Torres (Ret.) or someone that he recommends.

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While the Trustee has agreed to mediate with Judge Hurkin-Torres (*see* Adv. Pro. No. 10-04428, ECF No. 95), it is neither feasible nor appropriate for him to mediate approximately 60 adversary proceedings in a timely and efficient manner as required by the Avoidance Actions Procedures. As a result, the Trustee seeks this Court's assistance with appointment of mediators and timely scheduling of mediations or, alternatively, to dispense with mandatory mediation required by Section 5.A of the Avoidance Action Procedures so that these cases may be expeditiously scheduled for trial.

Accordingly, the Trustee requests a conference on March 25, 2020 at 10:00 a.m., which is the next scheduled omnibus hearing.

Respectfully submitted,

/s/ Nicholas J. Cremona

Nicholas J. Cremona
Partner

Enclosures

cc: Helen Davis Chaitman